IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No. 22457 of 2000

Between:

T.Venkataramana, S/o Pitchaiah,
R/o H.No.1-2-147/V, Indira Park, Suryapet,
Nalgonda District.

..... PETITIONER

AND

1 Andhra Pradesh State Road Transport Corporation,

Rep.by its Managing Director,
Musheerabad, Hyderabad.
2 Regional Manager, Andhra Pradesh State Road

Transport Corporation,
Ranga Reddy Region, Imlibun Bus Station,
Hyderabad.
3 Deputy Chief Traffic Manager,

Andhra Pradesh State Road Transport Corporation,
Ranga Reddy Region, Imlibun Bus Station,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or Writ particularly one in the nature of Writ of Mandamus or any other appropriate Writ declaring the charge sheet No.P2/114(1)/98-PRG dated 5.4.99 and consequential proceedings of the Dy.Chief Traffic Manager No. P2/114 (1)/98-PRG dated 1.2.2000 in imposing the punishment of removal from service is illegal and arbitrary; (ii) declaring the proceedings of the Regional Manager dated 15.7.2000 in confirming the removal Order is illegal and arbitrary and consequently direct the Corporation to reinstate

the petitioner into service with all consequential benefits and pass such further or other orders as the Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr. G.VIDYASAGAR

Counsel for Respondents: Smt.P.RAJANI REDDY (SC FOR APSRTC)

The Court made the following :

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the Proceedings No.P2/114(1)/98-PRG, dated 1-2-2000 of the 3rd respondent in imposing punishment of removal from service against the petitioner as confirmed by the 2nd respondent in Proceedings dated 15-7-2000 as arbitrary and illegal and consequently to direct the respondents to reinstate the petitioner into service with all benefits.

It is the case of the petitioner that he joined the service of the respondent-Corporation as Traffic Inspector Grade II (direct recruitment) on 24-2-1992. On appointment, he was posted to Narayanpet Depot. Subsequently, on 4-2-1996 he was transferred to Pargi Depot. At Pargi Depot, there were 74 schedules of buses operated and he worked as Traffic Inspector Grade II thereat. He had put in more than 7 years of service without any blame. In fact, he was running the depot very efficiently with high quality of discipline by the sub-staff resulting in profits and punctual operation of buses and the depot stood ‘first’ for the financial year 1997-98 and earned a profit of Rs.64.00 lakhs. He was, in fact, attending to duties beyond the working hours for achieving the targets. While so, he was issued with a charge sheet dated 5-4-1999 enumerating the following charges:

1. For your failure to submit paid vouchers relating to double duty advances amounting to Rs.60,000/- (received in 9 occasions from Accounts wing) immediately after disbursement of the advances to the crew, which amounts to misconduct under Regulation 28(ix)(a) of the APSRTC Employees Conduct Regulations,1963.

2. For having prepared fictitious double duty paid vouchers separately (5 sheets) for the period from Declaration.1996 to June 1997 for an amount of Rs.7700/- which tantamounts to misconduct under Regulation 28(x) of the APSRTC Employees Conduct Regulations,1963.

3. For having incorporated amounts in the original double duty paid vouchers summary sheets at a later date to an extent of Rs.11,470/- which constitutes misconduct under Regulation 28(ix)(a) of the APSRTC Employees Conduct Regulations,1963.

4. For having given attendance to S/Sri N.N. Reddy E.270159 and C.J. Reddy,

E.252565, Conductors of Pargi Depot for about 20 days without extracting line duties from them and utilized their services for preparing fictitious five double duty advance paid vouchers, which amounts to misconduct under Regulation 28(iii) of the APSRTC Employees Conduct Regulations,1963.

5. For having allowed weekly off to S/Sri G.Mallaiah E.251456, Conductor, T.N. Reddy, E.82498 Conductor and K. Hanumanthu, E.270830, Conductor though they have not performed minimum 3 days duties and also granted more than one grievance off to Sri G. Mallaiah, E.251456, Depot Secy./NMU, Pargi Depot contrary to circular instructions, which amounts to misconduct under Regulation 28(x)(a) of the APSRTC Employees Conduct Regulations,1963.

He submitted a detailed explanation stating that he is not responsible for preparing the vouchers for the double duty advances paid to the Conductors. It was the Traffic Inspector Grade III, the Chief Inspector and the Accountant, who were responsible for preparing the double duty vouchers and also paying the amounts. However, a detailed enquiry was conducted and the Enquiry Officer submitted his report holding him guilty of the charges without there being any acceptable evidence thereto. The disciplinary authority simply followed the findings of the Enquiry Officer and issued show cause notice of removal and finally he was removed from service by an order dated 1-2-2000 of the 3rd respondent. Aggrieved by the same, he filed an appeal before the Regional Manager – 2nd respondent herein - and the same was also rejected. Hence, this Writ Petition.

It is the case of the petitioner that he is not incharge of the duties of preparing double duty vouchers. In fact, the vouchers were prepared by T.I. Grade III and was countersigned by the Chief Inspector and the Accountant. Therefore, he is not responsible for preparing any vouchers and committing any temporary misappropriation. The charges are as vague as they could be and the evidence is not directly related to prove the misconduct alleged against him. Even otherwise, the punishment of removal from service is disproportionate to that of the misconduct alleged and both the disciplinary as well as appellate authorities have not taken into consideration the clean service rendered by him for more than seven years for the purpose of imposing lesser punishment.

A detailed counter affidavit has been filed on behalf of the respondents denying the allegations made by the petitioner. It is *inter alia* asserted that the petitioner has committed serious misconduct and the same was proved in full. The disciplinary

authority as well as the appellate authority have taken a right decision to impose the punishment of removal from service against the petitioner, since it is a case of temporary misappropriation of funds of the Corporation. Merely because the past conduct of the petitioner was clean, that itself does not entitle him to be reinstated into service. The punishment imposed is proportionate to that of the misconduct proved. Therefore, the impugned orders do not call for interference at the hands of this Court under Art.226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Orders and other material made available on record.

At the outset, it may be noticed that the sum and substance of the charges is that the petitioner failed to submit the vouchers under which amounts were paid to the Conductors for double duty performed by them and further, he has got prepared fictitious double duty vouchers, which tantamounts to temporary misappropriation. It is unfortunate that nowhere it was found that the petitioner has temporarily misappropriated the amounts. No person, who alleged to have received the amounts under those vouchers, was examined. On the other hand, the Traffic Inspector Grade III, who was the incharge of the affairs of preparing the double duty vouchers and who was examined in the domestic enquiry has stated as under:

> "Q: How many times you have submitted the paid vouchers of advance amount in Accounts Section ?
>
> A: I have submitted 11 times of the paid vouchers to the Accounts Section of the period Dec. 1996 to June 1997.
>
> Q: Yourself and the Accountant have given an acknowledgment that you have paid Rs.2,21,270/- as advance amount to the crew for the period December 1996 to June 1997. Is it fact or not ? (The original copy of the acknowledgment is shown at the time of enquiry).
>
> A: Yes.
>
> Q. Is it fact that you have certified the Rs.2,21,270/- including Rs.7,700/- of fictitious vouchers of 5 sheets submitted and certified by you. Is it fact or not ?
>
> A. Yes, Rs.7,700/- was included."

The Chief Inspector, in his statement, before the Enquiry Officer has stated as follows:

"Q: Am I certified the above five sheets of the fictitious vouchers ?

A: I asked you to sign the vouchers (certify) since you are the incharge of the operations, but you refused to certify the sameon the contest that it is already certified by the T.I. III ?

Q: Have you identified any irregularities in the five fictitious vouchers ?

A: I already stated that at the time of giving my statement."

Insofar as charge No.3 is concerned, the Accountant has stated that he and the Traffic Inspector Grade III prepared the statements.

As seen from the above evidence, it does not inspire the confidence of the Court to hold the petitioner guilty of the charges. Absolutely, there is no evidence to hold the petitioner guilty of the charges. Nothing prevented the Management from examining the Conductors against whom the double duty vouchers were said to have been prepared and the amounts were paid. They are their own employees. That could have, in fact, clinched the issue. Even in the teeth of the evidence of T.I. III, Chief Inspector and the Accountant, as noted above, no responsibility can be fixed on the petitioner for preparing the double duty vouchers. Even as to preparing of the fictitious vouchers, the Assistant Depot Clerk, who was examined in this regard, stated as under:

" Q: Sri T.V. Ramana to Sri P. Prabakar Reddy Conductor – on whose request you have signed on the second list of OT/DD dockets of the period December,96 to June,97 ?

A. Sri B. Ramanujaiah, T.I. III of Pargi Depot advised me to sign on the second time list of OT/DD dockets of the period December,96 to June,97 as the first list of the above dockets were lost."

From the above evidence, it cannot be said that the petitioner was responsible for not preparing the double duty vouchers and not submitting them in time or preparing fictitious vouchers and submitting, which tantamounts to temporary misappropriation. The Department also conducted an enquiry for the very same misconduct against the Accountant and also T.I. III. Insofar as the punishment is concerned, they were reverted to the lower post only. In fact, this itself shows that the responsibility was

fixed against T.I. III and the Accountant and as such, they were punished departmentally. May be, the petitioner also contributed some sort of irregularity, but that does not mean that he should be imposed with a serious punishment of removal from service. For all these reasons, the impugned Order are liable to be set aside and are accordingly set aside.

In the result, the Writ Petition is allowed directing the respondents to reinstate the petitioner with continuity of service, but without any back wages and other attendant benefits including notional increments. No order as to costs.

02-8-2005

prk